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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,049	02/02/2004	John N. Gross	JNG 2004-5	1525

23694 7590 05/19/2008
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BERKELEY, CA 94704

EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
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05/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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MAILED
FROM DIRECTORS OFFICE

J. Nicholas Gross, Attorney
2030 Addison Street
Suite 610
Berkeley, CA 94704

MAY 16 2008

TECHNOLOGY CENTER 3600

In re Application of
John N. Gross
Serial Number: 10/771,049
Filed: February 2, 2004
For: **NOTIFICATION SYSTEM AND
METHOD FOR MEDIA QUEUE**

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on Applicant's Petition filed on December 3, 2007 to have at least some of the references cited in the October 10, 2007 Information Disclosure Statement (IDS) entered in the application and considered by the examiner.

The Petition is **DENIED**.

History

A final rejection was mailed on September 17, 2007. In response to the final rejection, applicant filed an amendment after final rejection on September 26, 2007 and an Information Disclosure Statement on October 10, 2007. As required under 37 CFR 1.97, the IDS was submitted with the certification statement and required fee set forth in 37 CFR 1.17 (p). The certified statement sets forth that **"no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement"**.

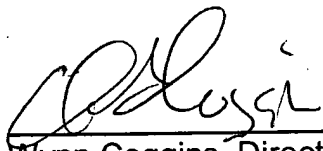
The examiner's next office action mailed on November 27, 2007 indicated that the IDS filed on October 10, 2007 would not be considered because seven of the references listed on the IDS had already been present in the file more than three months from the certification statement and therefore the certification statement under 37 CFR 1.97(e)(2) was erroneous.

Decision

Applicant's petition does not contest that the certified statement was in error. Applicant simply states that "the Examiner should nonetheless at least consider the other references for which the certification was accurate". However, there is no provision to consider in part an IDS after a final rejection. Also, the examiner would not know to which references the certification was correct and should be considered. Therefore, the examiner correctly held that the IDS did not meet the requirements of 37 CFR 1.97 and was properly not considered in his review.

The application has been forwarded to the Office of Publication for issuance of the Patent.

Any questions regarding this decision should be directed to Supervisory Patent Examiner John Weiss at 571-272-6812.



Wynn Coggins, Director
Technology Center 3600
571-272-5350

WC/jw 4/28/08

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